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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/730,330

12/08/2003

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BOC920030109US1 (013)

2374

46322

7590

11/16/2009

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ART UNIT

PAPER NUMBER

2614

MAIL DATE

DELIVERY MODE

11/16/2009

PAPER

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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 10/730,330  
Filing Date: December 08, 2003  
Appellant(s): CREAMER ET AL.

\_\_\_\_\_  
Steven M. Greenberg  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed 06/04/2009 appealing from the Office action mailed 07/25/2008.

**(1) Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief.

**(2) Related Appeals and Interferences**

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**(3) Status of Claims**

The statement of the status of claims contained in the brief is correct.

**(4) Status of Amendments After Final**

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct.

**(6) Grounds of Rejection to be Reviewed on Appeal**

Appellant's brief presents arguments relating to the drawings requiring correction under 37 C.F.R. 1.83(a). This issue relates to petitionable subject matter under 37 CFR 1.181 and not to appealable subject matter. See MPEP § 1002 and § 1201.

The appellant's statement of the grounds of rejection, in regards to items 2-4, to be reviewed on appeal is correct.

**(7) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(8) Evidence Relied Upon**

5,987,116	PETRUNKA ET AL.	11-1999
7,209,549	REYNOLDS	4-2007
US 2004/0264673 A1	NOVACK	12-2004

### **(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

#### ***Claim Rejections - 35 USC § 112***

1. Claims 1-3 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
2. Claim 1 recites "A call center **comprising**: at least one phone handset... an enterprise application... a database of caller information... at least one line information database (LIDB) disposed in said PSTN... a gateway node... and a query interface..." However, the "call center" does not comprise these features. The "call center" may interact with, use, or connect to one or more of these elements, but the "call center", itself, does not comprise any of these elements.

***Claim Rejections - 35 USC § 102***

3. Claims 1, 4, 5, 8-12, 15, 16, and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Petrunka et al. (US 5,987,116).

4. In regards to claim 1, Petrunka discloses a call center (See Fig. 1 and Network Call Center (NCC) 1100) comprising: at least one phone handset (See Fig. 1 and customer 1200) coupled to a gateway (See Fig. 1 and local switch 1220) to a public switched telephone network (PSTN) (See Fig. 1 and PSTN); an enterprise application (See Fig. 1 and ACD Server 1120) associated with said at least one handset and at least one data terminal (See Fig. 1 and Host Computer 1330) coupled to said enterprise application and disposed in proximity to each of said at least one handset; a database (See Fig. 1 and Directory Assistance Database (DADB) 1150) of caller information coupled to said enterprise application, each record in said database having a configuration for location based upon a searching key (e.g., language preference) (See col. 4-5 lines 52-9); at least one line information database (LIDB) (See Fig. 1 and LIDB 1140) disposed in said PSTN and configured to store individual searching keys (e.g., language preference) (See col. 4 lines 43-51), each of said individual searching keys having an association with a corresponding subscriber to said PSTN; and a gateway node (Fig. 1 and High Level Switch (HLS) 1110) communicatively linked to both said PSTN and said enterprise application, and, a query interface to said enterprise application programmed to select records in said database of caller information based upon an individual searching key received from said LIDB through said gateway node (for example, the HLS queries the LIDB for data segments/language preference, and

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sends the call information to the ACD server, and the ACD server in return, queries the DADB if further caller information is needed) (See col. 4 lines 44-58 and 4-5 lines 66-9).

5. In regards to claims 4 and 11, Petrunka discloses a method and machine readable storage having stored thereon a computer program for processing a call (e.g., call from customer 1200) in a call center (See Fig. 1 and Network Call Center (NCC) 1100) using information (e.g., data segments, such as language preference) stored in a line information database (LIDB) (See Fig. 1 and LIDB 1140), the method comprising the steps of: retrieving a searching key (e.g., language preference) from the LIDB associated with the call (See col. 4 lines 43-51); querying an enterprise application (See Fig. 1 and ACD Server 1120) based upon said retrieved searching key to retrieve caller data (e.g., customer name and address) (e.g., the caller data/customer name and address is retrieved from DADB 1150) (See col. 4-5 lines 52-9); and, presenting said caller data to a call center operator (See Fig. 1 and Agent 1300) (See col. 5 lines 10-28).

6. In regards to claims 5, 10, 12, and 17, Petrunka discloses the method and machine readable storage, wherein said retrieving step comprises the step of retrieving said searching key from a gateway node (See Fig. 1 and High Level Switch (HLS) 1110) disposed intermediately between the LIDB in a public switched telephone network (PSTN) and said enterprise application (for example, the HLS queries the LIDB for data segments/language preference, and sends the call information to the ACD server) (See col. 4 lines 44-58).

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7. In regards to claims 8 and 15, Petrunka discloses the method and machine readable storage, further comprising the step of routing the call to a particular operator based upon said retrieve searching key (e.g., language preference) (See col. 5 lines 10-17).

8. In regards to claims 9 and 16, Petrunka discloses in a public switched telephone network (PSTN) (See Fig. 1 and PSTN ), a method and machine readable storage having stored thereon a computer program for processing a call (e.g., call from customer 1200) in a call center (See Fig. 1 and Network Call Center (NCC) 1100) using information (e.g., data segments, such as language preference) stored in a line information database (LIDB) (See Fig. 1 and LIDB 1140), the method comprising the steps of: for selected ones of subscribers to the PSTN, storing within subscriber records in the LIDB a searching key (e.g., language preference) into an enterprise application (See Fig. 1 and ACD Server 1120) disposed externally to the PSTN; and during an attempt to establish a call between a subscriber to the PSTN and the call center, retrieving from the LIDB a searching key corresponding to the subscriber (See col. 4 lines 43-51) and forwarding said searching key to said enterprise application for use in retrieving call information (e.g., such as call information from Directory Assistance Database (DADB) 1150) stored externally to the PSTN (See col. 4 lines 52-65 and col. 4-5 lines 66-9).

***Claim Rejections - 35 USC § 102***

9. Claims 4, 8, 9, 11, 15, and 16 are rejected under 35 U.S.C. 102(e) as being anticipated by Reynolds et al. (US 7,209,549).

10. In regards to claims 4 and 11, Reynolds discloses a method and machine readable storage having stored thereon a computer program for processing a call (e.g., call from calling telephone station 112)) in a call center (See Fig. 2 and call centers 176, 178) using information (e.g., language preference indicator) stored in a line information database (LIDB) (See Fig. 2 and LIDB 150), the method comprising the steps of: retrieving a searching key (e.g., preferred language) from the LIDB associated with the call (See col. 4 lines 31-39); querying an enterprise application (See Fig. 2 and SCP 140) based upon said retrieved searching key to retrieve caller data (e.g., information pertaining to calling telephone station 112) (See col. 4 lines 18-30); and, presenting said caller data to a call center operator (e.g., destination/operator) (See Abstract and col. 6 lines 36-49).

11. In regards to claims 8 and 15, Reynolds discloses the method and machine readable storage, further comprising the step of routing the call to a particular operator based upon said retrieve searching key (e.g., preferred language) (See col. 3 lines 1-13).

12. In regards to claims 9 and 16, Reynolds discloses in a public switched telephone network (PSTN) (See Fig. 2 and originating switch 110), a method and machine readable storage having stored thereon a computer program for processing a call (e.g., call from calling telephone station 112) in a call center (See Fig. 2 and call centers 176,



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178) using information (e.g., language preference indicator) stored in a line information database (LIDB) (See Fig. 2 and LIDB 150), the method comprising the steps of: for selected ones of subscribers to the PSTN, storing within subscriber records in the LIDB a searching key (e.g., preferred language) into an enterprise application (See Fig. 2 and SCP 140) disposed externally to the PSTN; and during an attempt to establish a call between a subscriber to the PSTN and the call center, retrieving from the LIDB a searching key corresponding to the subscriber (See col. 4 lines 31-39) and forwarding said searching key to said enterprise application for use in retrieving call information stored externally to the PSTN (See col. 4 lines 18-30).

***Claim Rejections - 35 USC § 103***

13. Claims 2, 3, 6, 7, 13, and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Petrunka et al. (US 5,987,116), in view of Novack (US Patent Application, Pub. No.: US 2004/0264673).

14. In regards to claim 2, 6, and 13, Petrunka discloses all of claims 2, 6, and 13 limitations, except the call center, method, and machine readable storage, wherein each of said individual searching keys comprises a combination of caller name and a caller address. Novack, however, does disclose the call center, method, and machine readable storage, wherein each of said individual searching keys comprises a combination of caller name and a caller address (See page 5-6, paragraph [0062]). Therefore, it would have been obvious for one of ordinary skill in the art at the time of the invention to incorporate this feature within the method, as a way of storing

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subscriber information, such as names and addresses, for facilities, such as call centers to access and use.

15. In regards to claim 3, Petrunka discloses all of claim 3 limitations, except the call center, wherein said enterprise application comprises a customer relationship management application. Novack, however, does disclose wherein said enterprise application comprises a customer relationship management application (See page 5, paragraph [0059]).

16. In regards to claims 7 and 14, Petrunka discloses all of claims 7 and 14 limitations, except the method and machine readable storage, further comprising the step of presenting an incomplete set of caller data where said searching key cannot be retrieved from the LIDB. Novack, however, does disclose presenting an incomplete set of caller data where said searching key cannot be retrieved from the LIDB (See page 6, paragraph [0063]).

#### **(10) Response to Argument**

In regards to the rejections under 35 U.S.C. 112, Second Paragraph, Appellants argue (See Appeal Brief pg. 7, second paragraph, lines 5-11) that if the language of the claim is such that a person of ordinary skill in the art could not interpret the metes and bounds of the claim so as to understand how to avoid infringement, a rejection of the claim under 35 U.S.C. 112, second paragraph, would be appropriate, however, if the language used by Applicant satisfies the statutory requirements of 35 U.S.C. 112, second paragraph, but the examiner merely wants the applicant to improve the clarity

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or precision of the language used, the claim must not be rejected under 35 U.S.C. 112, second paragraph, rather, the examiner should suggest improved language to the applicant.

In response to the above argument, Examiner respectfully disagrees. Examiner would like to bring to Appellants' attention that the language of the claims (i.e., claims 1-3) is not presented such that a person of ordinary skill in the art could interpret the metes and bounds of the claim so as to understand how to avoid infringement. For example, independent claim 1 recites "A call center **comprising**: at least one phone handset... an enterprise application... a database of caller information... at least one line information database (LIDB) disposed in said PSTN... a gateway node... and a query interface..." However, the "call center" **does not comprise** these elements. The "call center" may interact with, use, or connect to one or more of these elements, but the "call center", itself, does not comprise any of these elements. The claim's language is simply and factually incorrect. Therefore, Appellants have not satisfied the statutory requirements of 35 U.S.C. 112, Second Paragraph.

In regards to the rejections under 35 U.S.C. 102(b), Appellants argue (See Appeal Brief pg. 10, second paragraph, lines 1-2 and lines 11-13) that the term "searching key" as it is well-known, means "A data item, or the value of a data item, that is used in carrying out a search", and therefore, have observed that Examiner has expressly construed the critical claim term "searching key" as "language preference".

In response to the above argument, Examiner respectfully disagrees. Although Appellants indicate the "well-known" term "searching key" as meaning "A data item, or

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the value of a data item, that is used in carrying out a search”, Appellants’ specification, however, (See paragraph [0007], lines 7-8) further indicates that “...the individual searching keys can include a combination of a caller name and a caller address.”

Therefore, Examiner believes that a particular language, like "a caller name" and "a caller address", reads on a data item, which is used to carry out a search. For example, a language preference, like "a caller name" and "a caller address", can be used to retrieve a calling party's data/information and/or used in retrieving call information, as shown in Petrunka (See col. 4 lines 44-58 and 4-5 lines 66-9). Furthermore, Petrunka indicates that the "language preference" is a “**data segment**” (See col. 4 lines 43-51). Therefore, “language preference” meets the definition of a “searching key”, in that Appellants have indicated "searching key" as meaning "A **data item**, or the value of a data item, that is used in carrying out a search.” Furthermore, Appellants indicate that "searching key" means “A data item, **or** the value of a data item, that is used in carrying out a search”. Therefore, “language preference” also reads on “the **value** of a data item”. For example, the “value” may simply be 1 = French, 2 = English, 3 = German, etc.

In regards to the rejections under 35 U.S.C. 102(b), Appellants, further, argue (See Appeal Brief pg. 11, first paragraph, lines 1-4 and second paragraph lines 1-2) that the term “enterprise application” as it is well-known in the art, refers to application software that performs business functions such as accounting, production scheduling, customer information management, bank account maintenance, etc., and therefore,

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Examiner expressly construes "enterprise application" to mean "automatic call distributor".

In response to the above argument, Examiner respectfully disagrees. Newton's Telecom Dictionary, 16<sup>th</sup> Expanded & Updated Edition, defines an automatic call distributor (ACD) as performing the functions of recognizing and answering an incoming call, looking in its database for instructions on what to do with that call, sending the call to a recording based on the instructions, and sending/routing the call to an available agent/operator. It is well known in the art that within an ACD system, **software** is used to send/route the call to the agent/operator. Therefore, an ACD does read on an "enterprise application" in that it contains software, which is used for routing instructions, in which **routing** instructions read on customer information **management**.

Furthermore, ACD **server** 1120, and not an "ACD" was used to read as an "enterprise application". An ACD server and an ACD are two complete and different things, and as is well known in the art, a server, in software terms, is a program which provides some service to other (client) programs (See Newton's Telecom Dictionary, 16<sup>th</sup> Expanded & Updated Edition), such as accounting, production scheduling, customer information management, bank account maintenance, etc.

In regards to the rejections under 35 U.S.C. 102(e), Appellants argue (See Appeal Brief pg. 13, second paragraph, lines 1-3 and lines 7-8) that Examiner commits new reversible error in construing "Enterprise Application" not as an ACD as was the case in Petrunka, but as a service control point (SCP) as stated explicitly by Examiner,

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and that neither an SCP nor an ACD bears any relation to an Enterprise Application as properly construed.

In response to the above argument, Examiner respectfully disagrees. The rejection of the “enterprise application” as an ACD was made under a 35 U.S.C. 102(b) rejection, in regards to Petrunka, and the rejection of the “enterprise application” as an SCP was made under a 35 U.S.C. 102(e) rejection, in regards to Reynolds. Therefore, two separate and different rejections were made in regards to the “enterprise application” being read as an ACD and as a SCP, and as previously stated above, an ACD server, and not an “ACD” was used to read as an “enterprise application”. An ACD server and an ACD are two complete and different things, and as is known in the art, a server, in software terms, is a program which provides some service to other (client) programs (See Newton’s Telecom Dictionary, 16<sup>th</sup> Expanded & Updated Edition), such as accounting, production scheduling, customer information management, bank account maintenance, etc.

#### **(11) Related Proceeding(s) Appendix**

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner’s answer.

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For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Thjuan K. Addy/

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